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16 **UNITED STATES DISTRICT COURT**
17
NORTHERN DISTRICT OF CALIFORNIA
18
SAN FRANCISCO DIVISION

20 IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

Case No. 3:23-md-03084-CRB

22 This Document Relates to:
ALL ACTIONS
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**DEFENDANTS UBER TECHNOLOGIES,
INC., RASIER, LLC, RASIER-CA, LLC'S
STATEMENT IN SUPPORT OF
PLAINTIFFS' ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIALS
SHOULD BE SEALED [ECF No. 1951]**

Judge: Hon. Lisa J. Cisneros
Courtroom: G – 15th Floor

DEFENDANTS' STATEMENT IN SUPPORT OF SEALING**CONFIDENTIAL MATERIALS**

Pursuant to Civil Local Rules 79-5(f)(3) and (c)(1) and the Protective Order entered in this case dated December 28, 2023, ECF 176 (“Protective Order”), Defendants Uber Technologies, Inc., Rasier, LLC, Rasier-CA, LLC (collectively “Uber”), respectfully submit this statement in support of Plaintiffs’ Administrative Motion to Consider Whether Another Party’s Material Should Be Filed Under Seal, dated December 12, 2024, ECF 1951 (“Plaintiffs’ Motion”).

I. BACKGROUND AND REQUESTED SEALING

Plaintiffs’ Motion concerns one document:

Document	Description	Designating Party
Portion of Ex. A to Ellis Declaration ISO Joint Discovery Letter	Redactions to exhibit containing confidential privilege log entries with personal identifying information (PII).	Uber

The document at issue is an exhibit containing entries to a confidential privilege log. The redacted portions of this document consist of personal identifying information, namely non-public email addresses of Uber employees. *See Cummings Decl.* ¶¶ 2-3. Disclosure of the document would harm the privacy interests of these individuals. Uber therefore submits this statement requesting that the Court seal the un-redacted version of this document under Local Rule 79-5(f)(3).

II. LEGAL STANDARD

Documents which do not relate directly to the merits of a case are properly sealed when a moving party makes “a particularized showing under the good cause standard of Rule 26(c).” *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (internal quotations and citations omitted); *see also Ctr. For Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092, 1101-02 (9th Cir. 2016). Federal Rule of Civil Procedure 26(c) states that good cause may exist when issuing an order to seal is necessary to “protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.” Fed. R. Civ. P. 26(c).

The document here is related to a brief on privilege disputes; it is not produced in relation to a

1 dispositive motion. *See United States v. Selugh*, 896 F.3d 1007, 1015 (9th Cir. 2018); *Brown v. Google*
 2 LLC, No. 20-cv-03664-YGR (SVK), 2022 WL 4227545, at *1; *Adtrader, Inc. v. Google LLC*, No. 17-
 3 cv-07082-BLF 2020 WL 6387381 at *1 (N.D. Cal. Feb. 24, 2020). Therefore, the good cause standard
 4 applies. Discovery motion materials “are actually one step further removed in public concern from
 5 the trial process than the discovery materials themselves.” *Selugh*, 896 F.3d at 1015. District Courts
 6 have discretion to balance the interests of private parties and public disclosure when deciding to seal
 7 documents. *Kamakana*, 447 F.3d at 1180.

8 “Courts in this circuit routinely seal email addresses and other personal identifying information
 9 under the compelling reasons standard due to the potential privacy harm to the individual whose
 10 contact information may be exposed.” *Jones v. PGA Tour, Inc.*, No. 22-CV-04486-BLF, 2023 WL
 11 7434197, at *2 (N.D. Cal. Oct. 5, 2023); *see also In re Pac. Fertility Ctr. Litig.*, No. 18-CV-01586-
 12 JSC, 2021 WL 1082843, at *2 (N.D. Cal. Mar. 12, 2021) (noting that “there are compelling reasons
 13 to seal customer names, ... as well as employee email addresses”).

14 III. UBER’S MATERIAL SHOULD BE KEPT UNDER SEAL

15 The document at issue is an exhibit containing entries to a confidential privilege log. The
 16 redacted portions of this document consist of personal identifying information, namely non-public
 17 email addresses of Uber employees. *See Cummings Decl.* ¶¶ 2-3. Uber has a legitimate interest in
 18 sealing the un-redacted version of the document in order to avoid harm to the privacy interests of these
 19 individuals. There are no less restrictive alternatives to sealing the document as the document has
 20 already been narrowly redacted. *See id.*

21 A. Failing to Seal the Documents Would Harm Uber

22 Portions of Ex. A to Ellis Declaration ISO Joint Discovery Letter:

23 The document at issue is an exhibit containing entries to a confidential privilege log. This
 24 exhibit was used by Plaintiffs in the joint letter brief on privilege disputes submitted pursuant to PTO
 25 20 (ECF 1952). The redacted portions of this document consist of personal identifying information,
 26 namely non-public email addresses of Uber employees. *Jones*, 2023 WL 7434197, at *2; *In re Pac.*
Fertility Ctr. Litig., 2021 WL 1082843, at *2. No other redactions were made to this document. This

1 Court has previously permitted similar redactions of employee addresses on privilege logs. (ECF
 2 1947; ECF 1858 at 7-8)

3 **A Less Restrictive Alternative to Sealing is Insufficient to Prevent Harm**

4 The document has already been redacted, and the redacted version filed on the docket (ECF
 5 1952-2). No less restrictive alternative to sealing the documents at issue is sufficient. *See* Cummings
 6 Decl. ¶¶ 2-3. Actions short of sealing the documents would not protect the legitimate privacy interests
 7 of Uber employees.

8 **IV. CONCLUSION**

9 For the foregoing reasons, Uber respectfully requests that the Court order that the un-redacted
 10 version of the document listed above be maintained under seal.

11 DATED: December 19, 2024

12 Respectfully submitted,

13 **SHOOK HARDY & BACON L.L.P.**

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